

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

UNITED STATES OF AMERICA :  
 :  
 vs. :  
 :  
 BRANTLEY DENMARK THOMAS, III : 2:17 CR 1150

Plea in the above-captioned matter held on Tuesday,  
January 16, 2018, commencing at 11:00 a.m., before the  
Hon. David C. Norton, in Courtroom II, United States  
Courthouse, 83 Meeting Street, Charleston, South Carolina,  
29401.

APPEARANCES:

NATHAN WILLIAMS, ESQ., Office of the U.S.  
Attorney, P.O. Box 978, Charleston, SC,  
appeared for the Government.

MATTHEW R. HUBBELL, ESQ., 134 Meeting St.,  
Charleston, SC, appeared for defendant.

REPORTED BY DEBRA L. POTOCKI, RMR, RDR, CRR  
P.O. Box 835  
Charleston, SC 29402

1 MR. WILLIAMS: Morning, Your Honor, may it please the  
2 Court. We're here on docket No. 2:17-CR-1150, United States  
3 of America versus Brantley Denmark Thomas, III. Your Honor,  
4 he's here with his attorney, Mr. Hubbell.

5 Your Honor, we have previously filed both an information  
6 and a plea agreement in the case, I believe, with the  
7 magistrate. A waiver was filed regarding the information in  
8 this case, with a presentment to a grand jury. And so we're  
9 scheduled today for a guilty plea to all counts of the filed  
10 information. And, as I said, there's a plea agreement in  
11 place.

12 THE COURT: Okay. So the waiver has already been  
13 accepted by the Magistrate Judge; is that what you're telling  
14 me?

15 MR. WILLIAMS: Yes, Your Honor, I confirmed it was  
16 signed and filed.

17 THE COURT: So all we need is a guilty plea, not a  
18 waiver.

19 MR. HUBBELL: Yes, sir.

20 THE COURT: Come on up and be sworn for me,  
21 Mr. Thomas.

22 (Defendant was duly sworn.)

23 THE COURT: Mr. Thomas, it's my understanding that  
24 you wish to plead guilty to the charges in this information,  
25 is that correct?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Now, before I can accept your plea, there  
3 are a number of questions I'm going to ask you. If you don't  
4 understand my questions or need to talk to Mr. Hubbell at any  
5 time, let me know.

6 THE DEFENDANT: Okay.

7 THE COURT: The reason for that is now that you've  
8 been sworn, your answers to my questions will be subject to  
9 penalties of perjury or lying under oath.

10 THE DEFENDANT: I understand.

11 THE COURT: Mr. Thomas, how old are you?

12 THE DEFENDANT: Sixty-one.

13 THE COURT: How far did you go in school?

14 THE DEFENDANT: College.

15 THE COURT: Have you taken any drug or medication or  
16 consumed any alcoholic beverages in the last 24 hours?

17 THE DEFENDANT: Just normal medications.

18 THE COURT: Prescription medications by your doctor?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And do those medications have any -- do  
21 they interfere in any way of your understanding what's going  
22 on here this morning?

23 THE DEFENDANT: No, sir.

24 THE COURT: Have you ever been treated for drug  
25 addiction or mental illness?

1 THE DEFENDANT: No.

2 THE COURT: Do you understand what's happening here  
3 this morning?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Can you tell me in your own words, why  
6 are you here this morning?

7 THE DEFENDANT: I'm here -- the information in the --  
8 whatever I did is accepting the prosecution's information  
9 that's before you.

10 THE COURT: Mr. Hubbell, do you have any doubt as to  
11 Mr. Thomas' competence to enter a plea here this morning?

12 MR. HUBBELL: No, I don't, Your Honor.

13 THE COURT: It appears to me that you are competent  
14 to plead to these charges, and I so find for the purposes of  
15 the record.

16 Now, have you had plenty of time to discuss your case with  
17 your lawyer?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Are you satisfied with the job he's done  
20 for you?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Has he done everything you asked him to  
23 do?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Has he failed to do anything you asked

1 him to do?

2 THE DEFENDANT: No, sir.

3 THE COURT: Do you understand that under the  
4 constitution and laws of the United States, you're entitled to  
5 a jury trial on these charges, if you want one?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You understand if you wanted a jury  
8 trial, you'd have the right to the assistance of your lawyer  
9 for your defense on the charges contained in this information  
10 17-1150?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You also understand if you wanted a jury  
13 trial, at your trial you'd be presumed to be innocent, and the  
14 Government's required to prove you guilty by competent  
15 evidence and beyond a reasonable doubt before a jury could  
16 find you guilty?

17 THE DEFENDANT: Yes, sir.

18 MR. WILLIAMS: You also understand if you wanted a  
19 jury trial, you would not have to prove that you were innocent  
20 at your trial?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You also understand that if you wanted a  
23 jury trial, during the course of your trial the witnesses for  
24 the Government would have to come into court, and they would  
25 testify in your presence, and your lawyer could cross-examine

1 the Government's witnesses, object to the Government's  
2 evidence and offer evidence in your defense?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You also understand if you wanted a jury  
5 trial, you'd have the right to testify to the jury, if you  
6 wanted to?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand you have a  
9 constitutional right not to testify, if you don't want to?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You also understand if you chose not to  
12 testify at your trial, the jury could not think you were  
13 guilty based on the fact that you had exercised your  
14 constitutional right not to testify?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you also understand if you wanted a  
17 jury trial, you'd have the right to issuance of subpoenas to  
18 compel the attendance of witnesses to testify in your defense?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: If you plead guilty here this morning and  
21 I accept this plea, you understand you're going to waive your  
22 right to a jury trial, the other rights we've just discussed,  
23 there's not going to be a jury trial, and I am going to  
24 sentence you on the basis of this guilty plea, after I  
25 consider your presentence report?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You also understand if you plead guilty,  
3 you're going to waive your right not to incriminate yourself,  
4 since I'm going to ask you some questions about what you did,  
5 in order to satisfy myself you're guilty, and you'll have to  
6 acknowledge you're guilty of these charges.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you also understand what you're  
9 pleading guilty to is a felony, and as such, you can lose some  
10 of your valuable civil rights, such as the right to vote or  
11 right to ever possess any firearm or bullet?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You also understand if you plead guilty  
14 and I accept your plea, you're going to be required to make  
15 restitution to the victim or victims of your acts, either by  
16 payment of money or in personal services as directed by the  
17 Court?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You understand if restitution or personal  
20 services is ordered, the failure to comply could be the basis  
21 of revoking your probation or supervised release?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Having discussed your rights with you,  
24 Mr. Thomas, do you still wish to plead guilty?

25 THE DEFENDANT: Yes, sir, I do.

1 THE COURT: And have you received a copy of the  
2 information, that is, the written charges made against you in  
3 this case?

4 THE DEFENDANT: I have, sir, yes.

5 THE COURT: Have you had plenty of time to go over  
6 the information with your lawyer, plus whatever records,  
7 reports and stuff, I'm sure there's a lot of paperwork that  
8 the Government's given your lawyer?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You've gone over all that with him?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. You're pleading guilty to  
13 counts one through 20. Count one is fraud and embezzlement  
14 from a federally-funded program. Counts two through ten,  
15 money laundering. Counts 11 through 20 is honest services  
16 wire fraud.

17 Do you understand that if you went to trial on count one,  
18 which is the fraud and embezzlement, that the Government would  
19 have to prove these elements beyond a reasonable doubt before  
20 a jury could find you guilty. That in or around October 12th  
21 until December -- October 2012 till December 2016, here in  
22 South Carolina, you were, at the time alleged, an agent of a  
23 state or local government that received, in any one-year  
24 period, benefits in excess of \$10,000 under a federal program  
25 involving any form of federal assistance; and, two, that you



1     embezzled, stole, obtained by fraud, without authority  
2     knowingly converted to the use of any person other than the  
3     rightful owner, or intentionally misapplied property valued at  
4     \$5000 or more owned by or under the care, custody or control  
5     of that agency.

6             Do you understand the charge against you in count one?

7             THE DEFENDANT: Yes, sir.

8             THE COURT: Counts two through ten are the money  
9     laundering charges. Do you understand the Government would  
10    have to prove these elements beyond a reasonable doubt before  
11    a jury could find you guilty. That on the dates of the  
12    information, and here in South Carolina, you, number one,  
13    engaged in a monetary transaction which had some effect on  
14    interstate and foreign commerce; and, number two, the monetary  
15    transaction involved criminally-derived property with a value  
16    greater than \$10,000 that was derived from a specified  
17    unlawful activity, that is, fraud and embezzlement from a  
18    federally-funded program; and, number three, that you did so  
19    knowingly.

20            Do you understand the charges against you in counts two  
21    through ten?

22            THE DEFENDANT: Yes, sir.

23            THE COURT: In counts 11 through 20, which is honest  
24    services wire fraud, the Government would have to prove these  
25    elements beyond a reasonable doubt before a jury could find

1 you guilty. That from March 2010 until November 2016, here in  
2 South Carolina, you, number one, devised or intended to devise  
3 a scheme to defraud or for obtaining money or property by  
4 means of wire, radio or television communications, in  
5 interstate or foreign commerce, by any writings, signs,  
6 signals, pictures or sounds; number two, that for the purposes  
7 of executing the scheme, you transmitted or caused to be  
8 transmitted by means of wire, in interstate or foreign  
9 commerce, any writings, signs, signals, pictures or sounds;  
10 number three, that the scheme was to deprive another of that  
11 person's right to receive honest services from the defendant  
12 through kickbacks supplied by a third party who has not been  
13 deceived; number four, that the payor provided a kickback to  
14 the defendant, you, a public official, intending that you  
15 would thereby take favorable official acts or omissions that  
16 the official would not otherwise take; and, number five, that  
17 you, a public official, accepted the kickback in exchange for  
18 official acts or omission to benefit the payor.

19 Do you understand the charges against you in counts 11  
20 through 20?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: The Court finds Mr. Thomas fully  
23 comprehends and understands the nature of the charges against  
24 him, and generally what elements the Government would have to  
25 prove if we had a trial.

1 Now, do you understand that the maximum possible penalty  
2 for count one is ten years, \$250,000 fine, three years  
3 supervised release and a special assessment of \$100?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now, counts two through ten, you  
6 understand the maximum penalties for counts two through ten is  
7 ten years in jail, \$250,000 fine, or twice the  
8 criminally-derived property involved in the transaction, three  
9 years supervised release and a special assessment of \$100?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Counts 11 through 20 is maximum 20 years  
12 in jail, \$250,000 fine, three years supervised release and  
13 \$100 special assessment?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Per count. Now, have you and your lawyer  
16 talked about the sentencing guidelines?

17 THE DEFENDANT: Yes, sir, we have.

18 THE COURT: Have you talked about how the Sentencing  
19 Guidelines might be applied in your case?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You understand that nobody is going to be  
22 able to determine the guidelines for your case until after  
23 your presentence report has been completed and you and the  
24 Government have had an opportunity to challenge the probation  
25 officer's report?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You also understand after your guidelines  
3 have been determined, the Court has the authority, under some  
4 circumstances, to depart from those guidelines or to vary from  
5 those guidelines, either above those guidelines or below those  
6 guidelines?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You understand that at sentencing the  
9 Court will examine the factors of 18 United States Code  
10 3553(a), which could result in the imposition of a sentence  
11 either greater than or lesser than the guidelines sentence?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You also understand under some  
14 circumstances the Government -- you or the Government -- may  
15 have the right to appeal any sentence you might get?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You understand in the federal system  
18 parole has been abolished, and if you're sentenced to prison  
19 you'll not be released on parole?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You also understand that if the sentence  
22 is more severe than you expect it to be, you're still bound by  
23 this guilty plea and you have no right to withdraw it.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You also understand if you plead guilty,

1 the law requires you serve a term of supervised release?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And when you're on supervised release  
4 you're restricted to places you can go and things you can do  
5 and you have to report to authorities on a regular basis?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: In your case a term of supervised release  
8 is three years on count one, three years on two to ten, and  
9 three years on 11 to 20. You understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you also understand if you're on  
12 supervised release and you violate a condition of your  
13 supervised release, you can be brought back into court, and if  
14 it's proved by a preponderance of the evidence that you did  
15 violate a condition of your supervised release, you can be  
16 sent back to jail for the entire term of your supervised  
17 release?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Has anyone threatened you or threatened  
20 anyone else or forced you in any way to plead guilty here  
21 today?

22 THE DEFENDANT: No, sir.

23 THE COURT: How about summarize the plea agreement.

24 MR. WILLIAMS: Thank you, Your Honor, may it please  
25 the Court.

1 Your Honor, the first paragraph sets forth the charges the  
2 defendant is pleading guilty to, the elements of those  
3 offenses and the possible penalties which Your Honor has  
4 already reviewed with the defendant.

5 Second paragraph states that the defendant understands  
6 that monetary penalties can be imposed by the Court, that any  
7 kind of fine or payments can be paid through schedules. And  
8 it states that he agrees to enter into a Bureau of Prisons  
9 Inmate Financial Responsibility Program if he is sentenced to  
10 a term of incarceration with an unsatisfied monetary penalty.

11 It sets forth the possibility of a special assessment,  
12 sets forth details of how restitution is determined, and sets  
13 forth the possibility of a fine.

14 The third paragraph states that the defendant understands  
15 that the Government's obligations under the plea agreement are  
16 contingent upon his abiding by federal and state law, and that  
17 if he fails to comply with the terms of the plea agreement,  
18 the Government can withdraw from the plea agreement, but he  
19 will not have a right to withdraw his guilty plea.

20 The fourth paragraph sets forth a cooperation paragraph.  
21 It sets forth that the defendant agrees to be fully truthful  
22 and forthright with the federal, state and local law  
23 enforcement agencies. It then goes into detail about his  
24 obligations and his necessity to cooperate; specifically, that  
25 he must be truthful. And it states that if he is not

1 truthful, the defendant understands that he will not be  
2 permitted to withdraw his guilty plea, but the Government can  
3 withdraw from the agreement, that he can not withdraw, that  
4 any additional charges known to the Government can be filed,  
5 the Government can ask for a maximum sentence, and the  
6 Government can use any and all information he provided  
7 pursuant to his agreement or under any proffer agreement, in  
8 his prosecution.

9 The fifth paragraph indicates that as part of his  
10 cooperation, the Government can submit him to a polygraph  
11 examination and it's completely in the Government's discretion  
12 to determine whether he has been truthful or has passed that  
13 polygraph.

14 The sixth paragraph states that any self-incriminating  
15 information the defendant provides as a result of his  
16 cooperation and that is required by this agreement, although  
17 it will be available to the Court, will not be used against  
18 him in determining his guideline range. This will not apply  
19 or restrict any information that was known to the Government  
20 prior to the date of this agreement concerning the existence  
21 of prior convictions, in a prosecution for perjury or giving a  
22 false statement, in the event that the defendant breaches any  
23 terms of the plea agreement, or it can be used to rebut any  
24 evidence or arguments offered by or on behalf of the  
25 defendant.

1       The seventh paragraph states if the defendant cooperates  
2 pursuant to the plea agreement and provides what the  
3 Government deems to be substantial assistance, the Government  
4 will file an appropriate 5K1.1 or 3553 -- sorry -- or a 35(b)  
5 motion.

6       Now, the eighth paragraph, Your Honor, is a little  
7 unusual. It discusses the defendant's deposit of funds in  
8 lieu of forfeiture. And it details that on or about March 8th  
9 the defendant deposited \$247,251.61 with the Court for the  
10 payment of restitution pursuant to a consent motion filed by  
11 the parties, and states that in addition, the Government had  
12 previously seized approximately \$135,000 of funds from the  
13 defendant's accounts. And, Your Honor, that money was seized  
14 and frozen by the Government when the crime was uncovered.  
15 And it states the parties agree these seized funds will be  
16 used to pay restitution, and forfeitures of those funds will  
17 be applied to the victims in this case.

18       It further details that that restitution obligation is to  
19 the Berkeley County School District, and that he will  
20 otherwise voluntarily surrender to and not contest any  
21 forfeiture of any properties or portions therefor that are  
22 otherwise forfeitable. Your Honor, it then continues the  
23 detailed information about forfeiture and sets forth his  
24 obligations and details of any kind of forfeiture regarding  
25 specific assets.



1 MR. HUBBELL: Judge, could I just add in there,  
2 additionally, we made a second deposit for restitution on  
3 December 4th of last year in the amount of \$86,025.67.

4 THE COURT: Do you want to write that in the plea  
5 agreement?

6 MR. WILLIAMS: We can, Your Honor, we'll just  
7 incorporate it on the record.

8 THE COURT: That's fine. Doesn't make any  
9 difference. Go ahead and pencil it in; if not, don't worry  
10 about it.

11 MR. WILLIAMS: Ninth paragraph states the defendant  
12 understands and agrees that by pleading guilty to these  
13 offenses he will be prohibited from controlling or  
14 participating in the conduct or affairs of any federally  
15 insured bank or credit union.

16 The tenth paragraph states that he has met -- represents  
17 to the Court he has met with his attorney on a sufficient  
18 number of occasions for a sufficient period of time to discuss  
19 his case. He understands what his rights are, and has  
20 discussed the rights he's giving up by pleading guilty, with  
21 his attorney. And that his decision to plead guilty is  
22 voluntary and not a result of any pressure or intimidation.

23 The eleventh paragraph, Your Honor, is an appeal waiver.  
24 States that he is aware that under 18 U.S.C. 3742 and 28  
25 U.S.C. 2255, he has certain rights to contest his conviction

1 or sentence; he acknowledges these, and, in exchange for the  
2 concessions made by the Government in this plea agreement,  
3 waives his right to contest either the conviction or the  
4 sentence in any direct appeal or postconviction action,  
5 including any proceedings under 28 U.S.C. 2255. However, this  
6 waiver does not apply to claims of ineffective assistance of  
7 counsel, prosecutorial misconduct or future changes in the law  
8 that affect the defendant's sentence.

9 The twelfth paragraph is a FOIA waiver; states that he  
10 waives all rights to request, from any department or agency,  
11 records that may be sought under the Freedom of Information  
12 Act.

13 The thirteenth paragraph states that the parties admit  
14 this plea agreement contains the entire agreement of the  
15 parties and supercedes any prior agreements.

16 THE COURT: Mr. Thomas, are those the terms of your  
17 plea agreement as you understand them, sir?

18 THE DEFENDANT: Yes, sir, I do.

19 THE COURT: This is your signature on the last page  
20 of your plea agreement?

21 THE DEFENDANT: I can't see. Yes, sir.

22 THE COURT: Okay. And before you signed it did you  
23 understand what you agreed to do?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you understand what the Government's

1 agreed to in return?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And going back to paragraph 11, you  
4 understand that I told you earlier that you have -- you might  
5 have a right to appeal any sentence I might give you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: But you've given up a lot of that right.  
8 You can only appeal from this sentence for ineffective  
9 assistance of your lawyer, prosecutorial misconduct and  
10 changes in law.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You have a right to attack the sentence  
13 under 2255 or habeas corpus, and you've given up most of that  
14 right. You can only attack for the same three reasons,  
15 ineffective assistance of counsel, prosecutorial misconduct,  
16 or changes in the law. You understand that?

17 THE DEFENDANT: Yes, sir.

18 MR. HUBBELL: Your Honor, could I approach the bench  
19 for a brief side bar?

20 THE COURT: Sure.

21 MR. HUBBELL: With Mr. Williams?

22 (Discussion held off the record.)

23 THE COURT: Has anyone made you any promise other  
24 than your plea agreement to induce you to pled guilty?

25 THE DEFENDANT: No, sir.

1 THE COURT: Has anyone made any prediction, prophecy  
2 or promise as to what your sentence is going to be?

3 THE DEFENDANT: No, sir.

4 THE COURT: How about giving me a factual basis, Mr.  
5 Williams, please, sir.

6 MR. WILLIAMS: Thank you, Your Honor. It's a little  
7 bit longer than usual, so bear with me.

8 THE COURT: I have plenty of time.

9 MR. WILLIAMS: Your Honor, the defendant was the  
10 chief financial officer with the Berkeley County School  
11 District from at least 2010 through 2016, and certainly  
12 through the end of 2016, and certainly the time covered by the  
13 information that was filed in this case.

14 As the chief financial officer, he was responsible for  
15 receiving invoices for services rendered to the School  
16 District and remitting payment to vendors who had submitted  
17 such invoices.

18 The scheme, Your Honor, is basically set forth in count  
19 one, and that scheme involved essentially remitting payment to  
20 certain vendors in amounts that was greater than the payment  
21 that was due.

22 Effectively what the defendant did was inflate payments  
23 that were being given to vendors, so that a rebate or refund  
24 would be issued off those accounts. The resulting checks that  
25 were written for the overpayment were remitted back to the

1 School District; however, they were not deposited in the  
2 School District accounts. Because of the defendant's  
3 position, he understood that there was a way to convert those  
4 monies to his own use without anybody noticing it. So there  
5 wasn't really a place in the accounting for those checks to be  
6 deposited. And that he began converting those checks over to  
7 his own use. So he created a scheme where he could create an  
8 overpayment, then have that overpayment embezzled from the  
9 School District by depositing it into his own accounts.

10 There's an example of that, Your Honor, contained -- and  
11 I'll use count ten as an example, that's a money laundering  
12 count. There, the vendor was the Berkeley Electric  
13 Cooperative. At the end of 2016 they sent an overpayment  
14 check to the Berkeley County School District; I think that was  
15 for \$61,824.91.

16 So the defendant would have intentionally overpaid the  
17 Berkeley Electric Cooperative in that amount, knowing that  
18 when they had too much money, they would send back the  
19 overpayment or rebate check.

20 In that instance, Your Honor, there was actually some  
21 attention given to the these charges. It was sort of looked  
22 at as being a savings to the School District, and in that  
23 instance there was a press release of sorts and a picture in  
24 the paper of the defendant and people from the Cooperative  
25 showing the check that they were going to save money for the

1 School District on.

2 So although there was some publicity to these checks,  
3 there wasn't really any kind of internal accounting for them.  
4 So the defendant would then take those checks that were  
5 overpayments and then deposit them not into any kind of School  
6 District account, but into accounts that he was using for his  
7 own personal use.

8 The methodology he used to convert those checks varied.  
9 At times he would deposit checks directly into his personal  
10 bank account, but most of the time the scheme involved the  
11 laundering of the funds to sort of disguise the source and  
12 then make it harder to trace the amounts. Most recently, I  
13 think, and primarily as referenced in the information, he  
14 would convert first those overpayment checks into money  
15 orders. So he had a bank employee who would take the Berkeley  
16 County checks, convert them into money orders, often several  
17 money orders, and then he would take the money orders and  
18 deposit those into a third account which would be his -- a  
19 personal credit card account.

20 So he took the checks, broke them into money orders, then  
21 deposited them into a credit card account. And that credit  
22 card account he was using for personal expenses. So he would  
23 either be charging things on the credit card account, which  
24 was not generally the case; more often what he would do is he  
25 would create a positive balance in the credit card account,

1 then he would write a check off the credit card account, like  
2 a convenience check that credit cards offer, and then deposit  
3 that check into his personal checking account.

4 So we often saw two or three different ways he was moving  
5 money through the accounts. But in every circumstance when  
6 the money was converted, often it was laundered before it was  
7 converted to his own use, into his personal checking account.

8 I will say, Your Honor, there was some times that he used  
9 the checks directly to pay off loans. We saw him paying off  
10 car loans or making deposits or down payments on vehicles.  
11 But the FBI, who the agents are here, analyzed the accounts  
12 that were involved, and found that for the most part, the  
13 money was used on personal expenses, things like travel and  
14 private club memberships.

15 So count one, Your Honor, describes the scheme and theft  
16 that I just talked about. As stated in the indictment, the  
17 School District receives federal funding over \$10,000 a year,  
18 and did receive that amount in every year set forth in the  
19 indictment.

20 His scheme resulted in checks that were traced over at  
21 least a five-year period to well over \$450,000 in loss.

22 Other relevant conduct amounts, Your Honor, we anticipate  
23 being a part of this case at sentencing. Because of the  
24 statute of limitations, we did not include all those amounts,  
25 but we expect that there were some charges in State Court that

1 may be considered relevant conduct, and we'll sort of cross  
2 that bridge when we get to it at sentencing. So that is count  
3 one.

4 Count two to ten, Your Honor, reflect the deposit of the  
5 embezzled checks. The underlying unlawful act is the count  
6 one embezzlement. And so counts two through ten reflect the  
7 money laundering, as I described. He used several bank  
8 accounts to deposit proceeds to create money transactions,  
9 converting funds to money orders, depositing them into credit  
10 card accounts and making multiple monetary transactions to  
11 move the funds from his credit card to his personal accounts  
12 for use.

13 Counts two through ten reflect individual checks that the  
14 defendant embezzled, then deposited. The accounts themselves  
15 list the dates of the check, the date of the monetary  
16 transaction, the payor and the total amount. And each  
17 instance the checks were over \$10,000, which is required under  
18 18 U.S.C. 1957.

19 And I won't go through each of the counts, but each of  
20 those talks about the specific amount of the checks, generally  
21 between 30 and \$50,000, with some being up to \$60,000. And  
22 that makes the total amount, as I mentioned earlier, closer to  
23 the \$450,000 amount total.

24 The second set of charges, Your Honor, the next set of  
25 charges are counts 11 through 20. This is a little bit



1 different scheme. It's a kickback scheme, Your Honor, it's  
2 charged as honest services wire fraud, I think what we  
3 commonly refer to as public corruption. And it reflects what  
4 investigators found during their investigation. So as they  
5 investigated the embezzlement, they also saw in the  
6 defendant's bank records several checks that were for \$2000  
7 each. And each one of those checks is reflected as a separate  
8 count in counts 11 through 20.

9 These checks, Your Honor, were deposited directly into the  
10 defendant's personal bank account. They were written to him  
11 by an insurance agent that he did business with, and the agent  
12 was selling insurance policies to the School District, and the  
13 defendant controlled those contracts and those sales and  
14 directly worked with that vendor.

15 There was no legitimate reason for those direct payments  
16 from the vendor to the defendant, Your Honor, and upon further  
17 investigation it was determined that those checks were, in  
18 fact, kickbacks paid to the defendant. So that he would trade  
19 on his official acts or his -- the honest services that he  
20 owed, effectively paying the insurance agent. In exchange,  
21 the insurance agent was effectively paying the defendant in  
22 exchange for that business.

23 The total amount of those payments were \$32,000 and those  
24 were made via wire transmission, multiple electronic  
25 transmissions, as is required under the statute.

1 Your Honor, the defendant was interviewed early in this  
2 case. He was interviewed by Special Agent Joseph Hamski, who  
3 is here. This was almost immediately after the conduct was  
4 found, because we understood that this would have to be  
5 disclosed to the School District early, understanding he was  
6 still the CFO at the time.

7 In that interview the defendant at first denied some of  
8 his conduct, but once he was confronted with the sort of  
9 details that were available, he readily admitted that he had  
10 engaged in the theft and the embezzlement. And although he  
11 did not know the exact amount, his estimate was -- he said he  
12 wasn't sure how much it was, but it was consistent with what  
13 agents had suspected.

14 THE COURT: Mr. Thomas, do you agree with the  
15 prosecutor's summary about your embezzlement and kickback  
16 schemes?

17 THE DEFENDANT: I do, sir.

18 THE COURT: Anything -- You agree to that,  
19 Mr. Hubbell, too?

20 MR. HUBBELL: Judge, we're in agreement with that.

21 THE COURT: Okay. It's the finding of the Court in  
22 the case of United States of America versus Brantley Denmark  
23 Thomas, III, that Mr. Thomas is fully competent and capable of  
24 entering an informed plea, that his plea of guilty is a  
25 knowing and voluntary plea, supported by an independent basis

1 in fact, containing each of the essential elements of the  
2 offense. The plea is, therefore, accepted, and he is now  
3 adjudged guilty of those offenses.

4 Please sign this for me, Mr. Thomas.

5 THE CLERK: May it please the Court, the defendant,  
6 Brantley Denmark Thomas, III, acknowledges receipt of a copy  
7 of the information; and, after arraignment, pleads guilty to  
8 the information in open court. Signed defendant, Brantley  
9 Thomas, III, January 16th, 2018.

10 THE COURT: Okay. Anything else?

11 MR. HUBBELL: No, Your Honor, thank you.

12  
13 (Court adjourned at 11:32 p.m.)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATION

I, Debra L. Potocki, Court Reporter for the United States District Court for the District of South Carolina, hereby certify that the foregoing is a true and correct transcript of the stenographically recorded above proceedings.

S/Debra L. Potocki

---

Debra L. Potocki, RMR, RDR, CRR